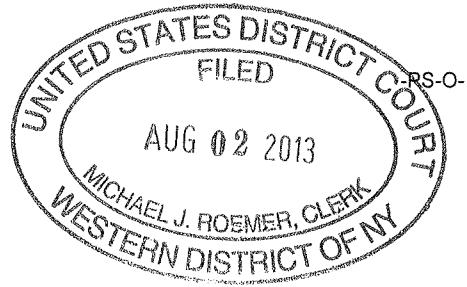


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



JUNIOR LORENZO CEPEDA,

Plaintiff,

-v-

L. URBAN, M. JAMALKOWSKI,

Defendants.

DECISION and ORDER
12-CV-0408F

Plaintiff was granted permission to proceed *in forma pauperis* and on April 1, 2013, the Clerk of the Court was directed to cause the United States Marshals Service to serve the summons and complaint upon defendants Urban and Jamalkowski at the Orleans Correctional Facility. Defendant Urban has to date not acknowledged receipt of service by mail, as required before service is "complete," see N.Y.C.P.L.R. § 312-a(b).¹ The Court has learned that Urban is employed currently at the Wende Correctional Facility.

IT IS HEREBY ORDERED that the Clerk of the Court is directed to cause the United States Marshals Service to serve the summons and complaint upon defendant Urban at the Wende Correctional Facility without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor.² Pursuant to 42 U.S.C. § 1997e(g)(2), Urban is directed to respond to the complaint; and

¹N.Y.C.P.L.R. § 312-a(b), which is the method of service the Marshal Service utilizes in this District, provides that service is not "complete" until the defendant returns the signed Acknowledgment of Receipt of Service by Mail to the Marshals Service.

²Pursuant to a Standing Order of Court, filed September 28, 2012, a defendant will have 60 days to file and serve an answer or other responsive pleading, see Fed.R.Civ.P. 12(a)-(b), if the defendant and/or the defendant's agent has returned an Acknowledgment of Receipt of Service by Mail Form within 30 days of receipt of the summons and complaint by mail pursuant to N.Y.C.P.L.R. § 312-a.

FURTHER, that the time for service of the summons and complaint upon Urban is extended an additional 90 days from the date of entry of this Order, see Fed.R.Civ.P. 4(m); *Murray v. Pataki*, 2010 WL 2025613, at *2 (2d Cir. May 24, 2008) (Summary Order) ("As long as the *pro se* prisoner provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m)) (citations omitted)).

SO ORDERED

Dated: 08/02, 2013
Buffalo, New York



WILLIAM M. SKRETNY
Chief Judge
United States District Court